

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to telehealth visits and independent study and providing an opportunity for public comment

The Iowa Board of Respiratory Care and Polysomnography hereby proposes to amend Chapter 262, “Continuing Education for Respiratory Care Practitioners and Polysomnographic Technologists,” and Chapter 265, “Practice of Respiratory Care Practitioners and Polysomnographic Technologists,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 148G.5, 152B.6, and 272C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 148G.5, 152B.6, and 272C.4.

Purpose and Summary

The proposed amendments to the continuing education rules allow licensees to earn more hours toward license renewal via independent study. The current rules only allow licensees to earn 10 of the 24 hours required for renewal via independent study. The proposed amendments increase to 12 the number of hours licensees can earn via independent study. The proposed amendment to Chapter 265 sets minimum standards for the provision of respiratory care services being delivered via telehealth. The proposed rule sets the expectation that respiratory care services provided via telehealth shall meet the same standard of care as in-person respiratory care. The proposed rule also requires licensees to ensure telehealth services are provided via secure means and patients are educated on the risks and limitations associated with services provided via electronic means.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on February 19, 2019. Comments should be directed to:

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Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
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Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 19, 2019
8 to 9 a.m.

Fifth Floor Board Conference Room 526
Lucas State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **262.2(1)“a”** as follows:

a. For respiratory care practitioner licensees: complete a minimum of 24 hours of continuing education. ~~Fourteen~~ Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

ITEM 2. Amend paragraph **262.2(1)“b”** as follows:

b. For respiratory care and polysomnography practitioner licensees: complete a minimum of 24 hours of continuing education. ~~Fourteen~~ Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee. At least 8 hours but not more than 12 hours shall be on sleep-related topics.

ITEM 3. Amend paragraph **262.2(1)“c”** as follows:

c. For polysomnographic technologist licensees: complete a minimum of 24 hours of continuing education. ~~Fourteen~~ Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

ITEM 4. Amend ~~645~~—**Chapter 262**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 272C.2 and ~~chapter~~ chapters 148G and 152B and ~~2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G]~~.

ITEM 5. Adopt the following new rule 645—265.9(152B,272C):

645—265.9(152B,272C) Telehealth visits. A licensee may provide respiratory care services to a patient utilizing a telehealth visit if the respiratory care services are provided in accordance with all requirements of this chapter.

265.9(1) “Telehealth visit” means the provision of respiratory care services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the therapy session.

265.9(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for a therapy session or to communicate with a patient between therapy sessions.

265.9(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person respiratory care. A licensee shall not utilize a telehealth visit if the standard of care for the particular therapy services cannot be met using technology.

265.9(4) Any respiratory therapist who provides a respiratory care telehealth visit to a patient located in Iowa shall be licensed in Iowa.

265.9(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide respiratory care services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

265.9(6) A licensee shall only provide respiratory care services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

265.9(7) A licensee shall identify in the clinical record when respiratory care services are provided utilizing a telehealth visit.

ITEM 6. Amend **645—Chapter 265**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 147, 148G, 152B, and 272C ~~and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G]~~.